

Original Paper

Regulated Set against Unregulated Minibus Taxi Industry in Johannesburg, South Africa—A Contested Terrain: Precariousness in the Making

Siyabulela C. Fobosi^{1*}

¹ Department of Sociology, University of Johannesburg, South Africa

* Siyabulela C. Fobosi, Department of Sociology, University of Johannesburg, South Africa

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Abstract

The minibus taxi industry moved from being heavily regulated before 1987 during the apartheid to the period of deregulation in 1987—which led to an increasing number of taxi operators—to the introduction of the Taxi Recapitalisation Programme (TRP) in 1999 with the purpose of transforming the industry. The TRP was—and continues to be—an attempt to respond to the problems and failures of the regulation process. Regulation of the minibus taxi industry is important to ensure that the industry operates according to the laws of South Africa. However, while this is so, there is an increasing number of illegal operators within the industry. This paper is situated in the broader context of my PhD thesis which investigated the impact of the TRP on precarious working conditions within the minibus taxi industry in Johannesburg. Using qualitative research methods, I conducted a total of fifty-eight interviews for my thesis. Results portrayed that most of the minibus taxi operators in the industry continue operating illegally, and thus making it difficult for the state to regulate. Regulation in the industry is sociologically-defined by two categories: social regulations and economic regulations. The industry remains unregulated and situated within the informal sector.

Keywords

minibus taxi industry, regulation, contested terrain, social regulation, economic regulation, taxi recapitalization programme

1. Introduction

The minibus taxi industry in South Africa was established by black entrepreneurs and up to now it mostly serves the black community. Prior to the late 1970s, the South African state inhibited black involvement in the taxi industry through state regulations. The period from 1977 to 1987 was characterized by partial deregulation and by the struggle of the taxi industry to be recognized as a legitimate public transport operator. In 1977, the government had established the Breda Commission of Inquiry into transport deregulation (Khosa, 1994). The commission established that South Africa “had reached a stage of economic and industrial development which enabled it to move towards a freer competition in transportation” (McCaul, 1990, p. 38). Following the recommendations of the commission, the Road Transportation Act came into operation in the same year and opened the public transport system to those previously excluded.

From 1987, there was a period of fuller deregulation of the industry coupled with taxi violence, in the face of stiff competition, as a part of the daily operations of the taxi industry. The post-apartheid era has been informed by efforts to bring the industry under a renewed and stricter form of control and regulation. As such, in 1999, the Taxi Recapitalisation Programme was announced in order to formalize the taxi industry. This follows the continued taxi violence, regardless of the first democratic general elections in 1994. Government established the National Taxi Task Team (NTTT) in 1995, with an attempt to improve the performance of the taxi industry, and improve road safety, increasing financial margins and ending the conflicts (Fourie, 2003). The NTTT recommended that the industry be regulated and formalized. However, the state is still facing challenges with this especially in the context where the industry continues to be defined by what Clarke (2006, p. 238) calls the “regulated precariousness”. The state’s weakness in the implementation of the NTTT recommendations is grounds for this regulated precariousness resulting from what I call “*somewhat withdrawal*” of the state from the industry. Therefore, while the state is making some means to regulate the minibus taxi industry, such regulation is set against unregulated taxis—unregistered and with no operating licenses.

Regulation by the state refers to the status of an enterprise which, in terms of the notion of formality, is registered by the state or has a license or permit from a state authority to operate legally (Fourie, 2003). Given this, the informal sector involves unregistered and unlicensed enterprises which exist at the boundary of legality. In relation to forms of ownership, informal sector enterprises are apparently characterised by self-ownership and family. This paper notes that regulation of the minibus taxi industry is not only important for ensuring that the industry operates according to the laws of the country. Regulation is also important so that the industry has access to subsidies from government and is also operating/competing efficiently and effectively (Baloyi, 2012). In other words, this is a case of state involvement in the industry. While the state has displayed a “*somewhat withdrawal*” in the industry shown through the lack of integration of the industry in the government public transport plans,

including the lack of subsidies—it plays a role of regulating entry in the industry through issuing operating licenses and allocating routes. This role is mostly played by the Provincial Regulatory Entities (PREs) (Gauteng Department of Roads and Transport, 2014). However, even though this is so—there are instances where the taxis operate illegally. But it is important to note that regulation does not only speak to the questions of licensing, route allocation and entry of the minibus taxis. Rather, it also speaks to questions of the industry being regulated by the Department of Labour (DoL), and this is a necessity for having an impact on the precarious working conditions within the industry. However, the latter regulation by the DoL has not proven successful due to non-compliance by the industry to labour regulations. To some extent, this symbolizes a case of failed state intervention in relation to the labour regulations. The call for the regulation of the industry by government is informed by efforts to bring the industry under some form of control in order to avoid precariousness.

The impact of precariousness on the life of taxi drivers and taxi marshals does not only depend on the work itself, but also on contexts such as the regulation of the industry by the state. Before discussing the regulation of the industry in detail, this paper starts with a brief discussion of the sociological meaning of regulation. This is important to locate the industry within the society. Thus, what we see daily in the industry is informed by various contradictions—how the world of the minibus taxi industry is made. Contradictions here refer to the incompatible development of different elements within the same relation, that is, between elements that are also dependent on one another (Marx, 1961)—between taxi owners and taxi drivers.

It is this understanding of contradiction that enabled Marx to avoid stasis and one-sidedness in thinking about the organic and historical movements (double movement) of the capitalist mode of production, about how they affect each other and develop together from their origins in feudalism to whatever lies just over our horizon (Carter, n.d.). This is the law of contradiction, that is, the law of the unity of opposites—between the taxi owners and taxi drivers. Therefore, the contradictions of opposites within the minibus taxi industry are derived from the manner in which the unity of economic elements—forces and relations of production, production and consumption, capital and labour, and et cetera—is accomplished from this specific mode of production in the industry. Thus, capital (taxi owners) and wage-labour (taxi drivers) constitute an opposition as well as a unity—meaning that neither can exist in the absence of the other (Jonna & Foster, 2016). From this, it can be concluded that the minibus taxi industry is contradictory—even though some taxi owners are able to drive their taxis in the absence of taxi drivers, some hire taxi drivers to perform this role (Barrett, 2003).

2. The Sociological Meaning of Regulation within the Minibus Taxi Industry

The sociological meaning of regulation of the minibus taxi industry refers to the social structures defining the industry. While the industry continues to be informal and unregulated, it is not separated from the overall economy. In this way, the industry forms an integral element of the complex economy. The industry is a feature of capitalist development that is subordinated to the formal sector—the buses and trains (Fourie, 2003).

Regulation in the industry is sociologically defined by two categories: social regulations and economic regulations (Fourie, 2008). It is important to note that, while literature revealed that the industry remains unregulated, there is some form of social regulation forming part of the industry. This is social regulations by the commuters and traffic officers. It is worth noting that the economy does not happen in isolation. Rather, it happens in the context of socio-economic systems. The systems interact with the economy and make it work—thus, the minibus taxi industry is situated in these systems. So, the industry is embedded in the socio-economic relations. The industry is characterized by self-regulation, with attempts to avoid state regulations. Therefore, the precariousness in the industry is defined by the social structures.

However, even though the minibus taxi industry is embedded in social regulations, it straddles the formal and informal sector. Law requires the industry to operate as per the transport and labour regulations. The industry is embedded in social control, which provides guidelines for it to function efficiently. Social regulations affect every aspect of our lives—from the moment the taxi owner registers his or her taxi for operation; the route to operate in; the number of commuters to be loaded into a taxi; to taxi drivers driving the taxis, regulations influence how they drive the taxis. Yet most people in the industry know very little about the impact of regulations, including the process by which they are produced. The social regulation within the industry speaks to the issues that have to do with the health, safety, security, and the environment of the tanks ranks. The Sectorial Determination for the Taxi Sector is an example of the regulation that administers social regulations within the industry. For example, this determination regulates the working conditions across the minibus taxi industry. However, the DoL is facing challenges with enforcing these regulations.

In all societies, “the livelihood of different groups of people is crucially determined by (a) who possesses effective control over productive resources, and (b) what happens to the output created with these resources” (Giri & Singh, 2015, p. 26). Therefore, the taxi owners, including what happens to the collected taxi fares, determine the livelihood in the taxi ranks. The productive resources, such as minibus taxis, variable inputs and instruments of production (taxi drivers) are referred to as the means of production. I call this the *social relation of productions*, which is the mode of production within the industry. In this mode of production, taxi drivers and taxi marshals produces just enough to ensure that the industry keeps generating revenue year after year.

Economic regulations within the industry govern a broad base of activities with controls such as taxi fares and the revenue generation. Therefore, the industry is embedded in these regulations. The entry of the taxi operators in the minibus taxi market is determined by these regulations. For example, in the results section I discuss these regulations specifically in relation to the licensing requirements, route allocation and entry regulation. The section directly speaks to the questions of the state regulating entry to the market. However, while the state performs this role, there are still cases where a majority of the operators are not following the entry requirements and thus operating illegally. This context gives rise to a condition of precariousness where the industry operates as much as possible to generate income whilst operating legal or illegal. Therefore, while the minibus taxis can be either legal or illegal, they live in precarious conditions.

In order to understand the regulation context within the minibus taxi industry in general—and precariousness in particular—I used different qualitative research methods, as explained below. The preceding section on the introduction and background is intrinsically-linked to the following sections on methods and results in so far as they outline regulation versus un-regulation in the context of the minibus taxi industry as defining the existence of precariousness.

3. Methods

3.1 Interacting with Participants

Research method is a strategy of inquiry moving from the underlying assumptions to research design and the collection of data. There are different research methods and the most commonly used are classified into qualitative and quantitative research methods. Using qualitative research methods, the empirical focus of the research was Johannesburg, the capital city of Gauteng Province in South Africa. Minibus taxis are either individually-owned, or with some having taxi fleets. In both cases, each vehicle is effectively a profit-center, owned by an investor or the driver himself. Researchers usually make use of the interviews, in qualitative research, in order to cover both a factual and a meaning level. Using interviews, researchers generate qualitative data. Interviews in qualitative research usually refer to in-depth, semi-structured or unstructured forms of interviewing. According to Mason (2002), interviews in qualitative research are characterized by the exchange of dialogue that is interactional. This means that qualitative interviews are likely to involve one-on-one interactions, focus group discussions/interviews and, they may happen over the telephone or the internet. Interviews are also characterized by an informal interaction between people, rather than a formal question and answer format.

Using qualitative research methods, I conducted a total of fifty-eight interviews for my thesis. The interviews were with the key informants from the Department of Transport; Gauteng Department of Labour; Gauteng Department of Roads and Transport; Gauteng Provincial Regulatory Entity; SA Taxi

Development Finance; South African Transport and Allied Workers Union; South African National Taxi Council; National Taxi Alliance. Most interviews were conducted with taxi owners, taxi drivers and taxi marshals in the four main taxi ranks of the City of Johannesburg. Lastly, interviews were also conducted with the commuters of the minibus taxis.

Guided by the interpretivism paradigm, my thesis made use of the qualitative research approach. The focus of the qualitative research was mainly to understand phenomena in context-specific settings by not manipulating the phenomena of interest. The decision to use qualitative methodology was due to the need to collect the ideas and opinions of the participants within the minibus taxi industry. The use of qualitative research generated more information. I collected data using semi-structured interview guides. Qualitative data was collected concurrently and analyzed separately. In addition, the qualitative research approach generates truthful knowledge of how people interpret reality in the industry. In addition to generating truthful knowledge, interpretivism helped in answering the question of the precarious working conditions within the minibus taxi industry.

Based on a qualitative methodological approach, the research drew from interviews within different people involved in the minibus taxi industry. Participant observation and documentation on the industry was also conducted. Broadly, participant observation happens when one is a stranger in the midst of a new world. Through this method, the researcher participates in the daily activities, rituals, interactions (for example, within the minibus taxi industry) and events in a situation with the purpose of learning the explicit and tacit aspects of their routines and their culture (DeWalt K. & DeWalt B., 2011, p. 1). Participant observation is important because, it improves the quality of the data obtained during fieldwork and improves the interpretation of the quality of data.

3.1.1 Searching for Meaning in the Data

In order to provide more effective and impartial analysis, researchers need to reflect on themselves. This involves examining and consciously acknowledging the assumptions and preconceptions that researchers bring into the research and that shape the outcome. When analyzing data, researchers are searching for explanation and understanding. The processes of data analysis entail the following three main components: “data reduction, data display and drawing and verifying conclusions—and give an overall view of data analysis” (Ahmed, 2010, p. 6). Qualitative data analysis normally involves the use of thematic content analysis, identifying, analyzing, and reporting data. These are processes whereby the researcher moves in a controlled and systematic fashion from the qualitative data collected to some form of thematic categorization and classification and then on to understanding, interpreting and explanation (Blanche, Durrheim, & Kelly, 2006). Themes capture something important about the data in relation to the research question. Maguire and Delahunt define thematic analysis as “the process of identifying patterns or themes within qualitative data” (2017, p. 3352).

In order to analyze data from the interviews, participant observation and focus group discussions conducted, as well as primary source material with respect to the field of enquiry, I undertook the following steps: familiarization and immersion in the evidence, inducing and unpacking themes, coding of evidence based on the themes, drawing connections between the themes, and then interpretation and understanding. I followed the following six steps: becoming familiar with the data; generated initial codes; searched for themes; reviewed themes; defined themes; and wrote the up the first report. The first step involved reading the transcripts several times, so that I become familiar with the entire data. Through generating codes in the second step, I organized data in a systematic and meaningful way. I had several codes that were related to the perceptions of the taxi drivers and taxi marshals on the impact of the TRP within the industry, including their working conditions. Some of the codes had to do with the role of the state in the minibus taxi industry. I organized the codes into broader themes that seemed to reflect something about the research question. In reviewing the themes, I considered whether the collected data supported each theme.

Therefore, interview data were analyzed into themes (thematic analysis). In using thematic analysis, I identified, analyzed, described and reported themes found within the collected data (Nowell, Norris, White, & Moules, 2017). The data collected during participant observation was analyzed to draw out themes after each participant observation. Through the analyses of data, I produced the following results in relation to the regulation of the minibus taxi industry.

4. Result

4.1 Licensing, Route Allocation and Entry Regulations within the Minibus Taxi Industry

The entry of people into the minibus taxi industry space is regulated by the state through providing operating licenses to the operators and allocating routes. However, while this space is regulated, there are operators who continue operating their taxis illegally (Kgwedi & Krygsman, 2017). The GDoRT has a Transport Regulation programme with a purpose of regulating private and public transport, in the following ways:

- by facilitating the provision of Learner and Driver Licenses,
- Motor Vehicle fitness and motor vehicle registration and licensing,
- registration of operating licenses and the establishment of Transport Operating Licensing Administration Body (TOLAB) and the Provincial Regulatory Entity (PRE) public and freight transport services and infrastructure in partnership with national and local government as well as private sector formations (Gauteng Department of Roads and Transport, 2017, p. 79). TOLABs facilitate the operating license and registration process administration on behalf of the GDoRT.

Therefore, it is the responsibility of the GDoRT to be involved in the registration and licensing of public transport operators and their operations. The GPRE plays an important role of issuing operating licenses to the minibus taxi operators. The Chairperson of the GPRE explains its role as follows:

“Our role is captured in Section 24 of the National and Transport Act. I believe you have a copy of that, or you can easily google it. It’s NATA 5 of 2009 (Yes). So our role is in Section 24. It mandates us to regulate public transport by receiving and deciding on applications for road based public transport which is intra provincial. However we also have a mandate to regulate inter provincial public transport because the NPT, the national public transport regulator, is not actually up and running. So until that entity is up and running we are still continuing regulating inter provincial public transport. Yes. And another mandate is to monitor and oversee public transport in the province. And if we look at the role of monitoring and overseeing public transport in the province we don’t necessarily have a mechanism to do that. The mechanism that we are supposed to having to be utilizing is the mechanism of law enforcement. So law enforcement is not within our department. It’s in another department. And it’s actually ideal if we are having law enforcement as part of our department because then we’ll be having a shared mandate, you know. So, monitoring and overseeing public transport it’s a little bit more of a difficult mandate because we don’t have that kind of law enforcement” (GPRE Chairperson, 2018, interview).

However, while the GPRE is playing the role of issuing operating licenses, including monitoring and overseeing the public transport in province—as explained in the subsection above—there are a number of taxi operators that are operating illegally—in other words, with no operating licenses and un-roadworthy vehicles, and thus placing taxi drivers in precarious working conditions. They are precarious because un-roadworthy taxis are not in a good condition to drive and place commuters in danger. There are also legal taxi operators who operate un-roadworthy vehicles (Neuman, 2003). Therefore, the minibus taxi industry is characterized by two groups of operators: the legal operators and illegal operators with roadworthy and un-roadworthy vehicles. But, even if so, the GDoRT is still facing challenges with knowing the actual number of taxis that are operating in Gauteng and Johannesburg, specifically. This, in itself, proves the extent of the minimal involvement by the state in the minibus taxi industry. The GPRE receives between 8000 and 10000 applications per year for operating licenses.

Concerning the route allocation to the minibus taxis: the taxi associations continue applying for their routes to the GPRE and when approved, routes are captured. As soon as routes are captured, this automatically reflects to every registered member of a particular association when issued with

operating licence and is attached as an annexure to an operating licence and operators would need to carry it when transporting commuters. However, the truth of the matter is that a number of taxi operators do not meet these requirements, and hence they have been getting impounded over the years. This further perpetuates the condition of precariousness in the industry. The municipality is involved in the planning processes for the allocation of routes to the minibus taxi industry. This further speaks to the question of regulating entry in the industry. The GPRE receives applications from the taxi associations for route allocation. The former Gauteng Member of the Executive Council (MEC), Dr Ismail Vadi, Roads and Transport also states concerning the regulation of the minibus taxi industry:

“Legally our primary role is to make sure that there is registration of various minibus taxi operators, such as the licencing functions that they have operating licence. Historically the old permits have to be converted into operating licences. We are busy with that process. There has been a big backlog in this process. We are close to clearing that hurdle. That’s a legal mandate, to regulate. On a day to day basis there is a number taxi conflicts, some violent, some nonviolent. We play mediating role in the process and try to resolve it without resulting in violence and disruption of transportation services. There is democratisation of taxis associations as one of the functions that we have. We have to make sure that we supervise all the various elections of various associations. In Gauteng we have 177 taxi associations. That is a large number. You can spend a year just following associations making sure they have elections. Some of them don’t want to have elections for different reasons, power play, tensions, those kinds of those things. That is one of the important work that we do. There is also normal licensing function for drivers. Ordinary drivers’ license and PDPs of drivers. Different functions” (Gauteng MEC for Roads and Transport, 2018, interview).

What emerges from this subsection is that the GDoRT has a role of making sure that there is registration of all minibus taxi operators. The department is still busy converting permits that were used during apartheid into operating licenses. However, while the department has this role—there are still cases where minibus taxis are not registered and operate illegally. As part of the regulation process, the department supervises the democratic processes within the taxi associations.

4.2 The Number of the Minibus Taxi Operators

In 2017, the GDRoT confirmed that there were 70 taxi associations (including for long distance taxis) registered in Johannesburg (Gauteng Department of Roads and Transport, 2017). The registration of all minibus taxis, and by extension public transport, is a way of regulating all public transport operators and associations. This registration is also meant to ensure that only legally registered transport operators and associations operate on allocated routes and ranks. There are different taxi associations in

Johannesburg and the Central Business District (CBD) has four major taxi ranks: Noord Street Taxi Rank, Bree Street Taxi Rank, Wanderers Taxi Rank and Faraday Taxi Rank. While extensive literature (Baloyi, 2012; Barrett, 2003; Browning, 2018; Fourie, 2003) report on the existence of the minibus taxi industry in South Africa, it is not clear how many minibus taxis there are in South Africa. In other words, it remains unclear how many taxi operators form part of the precarious conditions. The former Gauteng MEC for Roads and Transport had the following to say concerning the number of taxi operators in Gauteng:

“I don’t have the specific breakdown for Joburg but on our system we have about 45000 minibus taxis registered on our system and I might estimate that we have another 5 to 10000 illegal operators because we are picking up a number of people operating illegally. Because of the last 2 years, we had an extensive taxi licensing outreach programme, where our teams will go out in all the regions with SARS, with the municipalities to get the taxi operating licenses sorted out. I must say I think we are close to reaching a saturation point because not many new applications have come out with the process. We have made two rounds, I am picking up illegal operators, and some people do not want to register. They want to be outside the system and operate illegally or their vehicles are not complying, so they rather operate illegally” (Gauteng MEC for Roads and Transport, 2018, interview).

It is clear from this subsection that the former MEC is not certain about the number of minibus taxis that are operating in Johannesburg—with the system of the department having about 45 000 registered taxi operators and estimating that there are about 10 000 illegal operators. From this approximately 45000 and 10000 respectively, there is an element of precarity with this defined first by the un-roadworthiness of minibus taxis and the lack of regulation by the DoL.. Some of the operators that operate illegal refuse to register and choose to be outside the regulatory system.

Therefore, the problem of illegal operators is a serious one across the country, and this makes it difficult for the minibus taxis to compete efficiently and effectively—with some taxi operators dying whilst competing to make profit, especially where operators kill over routes. This speaks to need for the so-called “regulated competition”, as defined by the National Land Transport Act of 2009 (NLTA). Regulated competition means that the minibus taxi industry will have to be formalized and measures introduced to enhance its economic viability (Competition Commission, 2018). This, in turn, will transform the precarious working conditions.

4.3 Competition within the Minibus Taxi Industry

The minibus taxi industry in Johannesburg continues to be characterized by competition over routes. This competition signifies what I call a “*competition of the precariat*”. While the NLTA of 2009 outlined the importance of “regulated competition”, the competition over routes within the industry

continues to be stiff and this is based on the need to generate revenue through taxi fares. Generally, the taxi fares within the industry are regulated by the regional structures representing both local and long-distance operators. The fares are set based on market penetration, and this does not differ based on the needs and income level of the customers. The changes in the fuel market world usually results in fare increases from the industry. In some taxi associations, taxi fares are decided collusively to be charged per route, without consultation with, or interference by, the authorities. The commuters of minibus taxis are charged fixed prices/fares for travelling on particular routes (Competition Commission, 2018).

There is no clear source of information on the taxi fares, routes and frequency of trips, with this being a definition of the precarity. This condition of precarity in the industry is defined by being largely unregulated, with no set fares/prices and routes among taxis. Therefore, the taxi fares within the industry are unregulated and taxis operate on a cash basis. While this this is the case, it is estimated that the industry's annual revenue amounts to approximately R50 billion. In contrast to the formal businesses and trains within the public transport value-chain, there is no ticket system in the minibus taxi industry; fares are paid in cash without necessarily any clear records of commuter payments. This further complicates the competition within the industry and places workers in an unregulated competition atmosphere, with this making it difficult for the DoL to deal with the unregulated industry—precariousness in the making.

Also, as relieved in literature and discussed above, the industry operates alongside the formalized buses and trains. In this, the minibus taxis compete with the commuter bus industry, as depicted in Table 1 below. While noting in this Table that labour service conductions in the formalized commuter bus industry are enforced, the DoL has revealed failed attempts to enforce sectorial determination or labour conditions in the industry.

Table 1. Key Differences between the Commuter Bus Industry and the Minibus Taxi Industry

Differences	Commuter bus industry	Minibus taxi industry
Prescribed timetables and routes	Prescribed timetables have to be adhered to, irrespective of whether the bus is full or not	There is no prescribed timetables and operators operate only when vehicles are full
Routes	Many non-profitable routes must be operated based on the social needs of the population	Services focus on profitable short-distance peak and off-peak services
Service periods	Services are mostly in the peak periods	Services focus on profitable short-distance peak and off-peak services
Monitoring of operations	Contracted services are independently monitored for contract compliance	There is no independent monitoring of services
Fares	Fares are prescribed in contracted. Ticket machines are prescribed	There is no independent fare control in the taxi industry
Labour conditions of service	Working conditions are governed and enforced	Labour agreements, e.g., working conditions and minimum wages are extremely difficult to enforce
Infrastructure	Companies invest in infrastructure such as office space, depots and maintenance facilities	The taxi industry does not have a commitment to infrastructure developments relating to their operations
Road-worthy tests	Road-worthy tests are compulsory every six months	Road-worthy tests are required every twelve months

Source: Southern African Bus Operators Association (SABOA) presentation to the Competition Commission Market Inquiry into Public Transport, 6 June 2018. Presented by Prof J Walters.

As can be seen in Table 1 above, there are major differences between the formalized/regulated commuter bus industry and the informalized/unregulated minibus taxi industry. However, while noting the differences between the commuter bus industry and the minibus taxi industry as outlined Professor Walters, in Table 1 above, the latter industry is defined by what I would call “*precarious working conditions*”. Therefore, while Walters argues that the labour agreements, such as working conditions and minimum wages are extremely difficult to enforce, these are definitions of precariousness. This context exemplifies the existence of precarity in the Global South. Therefore, the literature on precarity is wrong to universalize its causes. By ignoring the history of precariousness within the industry, for example, Standing (2011), Walters and others blind themselves of the historical context of

precariousness. Ballafkih et al., rightly put it that “work and work relations are highly diversified and finely woven into different social, political, and economic systems” (Ballafkih, Zinsmeister, & Meerman, 2017, p. 2).

In relation to the labour conditions—where the working hours and minimum wages are difficult to enforce, this makes the regulation of the working conditions in the industry complicated. This, therefore, further strengthens the precarity of work in the industry. In the following section, I discuss the regulation of the working conditions within the minibus taxi industry.

4.4 Regulation of the Working Conditions in the Minibus Taxi Industry

The regulation of the working conditions in the minibus taxi industry is the key to ensuring that the DoL is having a meaningful impact on the precarious working conditions within the industry (Kgwedi & Krygsman, 2017). The DoL does this through the enforcement of the Sectorial Determination for the Taxi Sector. In explaining the role of the DoL, Mr Lundi Bleni from the Gauteng DoL states:

“It has been found to be very difficult to regulate an industry that has been classified as very informal. Now we have a sectorial determination. Now, in all sectorial determination as you are aware it regulates that particular working condition. Now if you regulate the working conditions what are we specifically referring to? We regulate working hours, we regulate information concerning pay, we regulate safety of workers in each and every workplace, we regulate to say that there is a social benefit that we provide for workers and they need to be entitled. Entitlements like your UIF, and in terms of safety your compensations. What does it all require? It requires an employer to comply. In all ideal situations where is it that we assess compliance? We go and knock at the door of the office and say as a department we are here. Can we perhaps please see if we can assess compliance in terms of our labour laws? We then request, can you please give us the number of workers that you have in the work place. We then request contracts of workers of those employees in the workplace. We then request attendance register. We then request payslips” (Gauteng Department of Labour, 2018, interview).

What emerges from this subsection is that while it is difficult to regulate the minibus taxi industry due to its informal nature, there is a Sectorial Determination regulating the working conditions in the industry. However, most of the taxi operators do not comply to the regulations from the DoL, partly due to the informal nature of the industry. Mr Lundi Bleni also states that translating the following, as part of the regulation, to the minibus taxi industry continues to be a challenge for the DoL:

“You have a contract of employment that regulates this is what we have agreed upon me and the employee. We have agreed in terms that this is a number of working hours that you are going to work. We have agreed that this is a salary you are going to get. These are an outline of your responsibilities, your job functions of what you are going to do. And then from there

we compare with the attendance register if it adheres in terms of the working hours. We then take that and then you translate into a payslip an employee is supposed to be receiving. You then can conclude from that aspect of registration that the employer has complied. The worker is registered for UIF. The worker is registered for compensation and therefore you conclude after in terms of taking a walk that the workplace has complied” (Gauteng Department of Labour, 2018, interview).

Therefore, the regulation by the DoL requires that the industry have contracts of employment for its employees, including complying to the hours stipulated in the Sectorial Determination. It has historically, at least since 1994, been complicated for the DoL to enforce labour regulations because of the nature of the industry, and thus giving rise to the precarious labour conditions. As such, while there is an existence of a “*somewhat withdrawal*” by the state from the industry, the nature of the industry complicates its full regulation by the state. The nature of the industry is the existence of precariousness in the Global South, which opposes Standing’s universalization of the precariat.

5. Discussion and Conclusion

There is no reason to believe that taxi owners and taxi drivers will stop resisting regulation and continue to defend (though not necessarily deliberately) a condition of in-formalized labour—giving rise to the existence of precariousness in the industry. In-formalized labour, at least in the case of the minibus industry, is no doubt precarious labour and it has all the negative characteristics typically associated with precariousness. Taxi drivers operate under conditions in which their formal labour rights are not realized and they remain unprotected in practice vis-à-vis these rights. Taxi drivers have rights on paper—as written in the Sectorial Determination—but no *de facto* rights because the SD is not being enforced in the industry because of opposition to it. This clearly places the minibus industry within the informal sector in terms of a labour perspective on formality. The point though is that taxi drivers do not have an undifferentiated perspective on labour informality—it has both its good and bad dimensions. Unless the bad begins to outweigh the good from the perspective of taxi drivers, and here the role of the unions would be of great significance, it is unlikely that labour formalization will go unchallenged. Overall, the sentiment in the minibus taxi industry in South Africa is that labour formalization/regulation is a top-down process undertaken by the department of labour that does not engage with the on-the-ground complexities of the industry. For example, one interviewed taxi owner from Wanderers taxi rank states:

“Formalization or no formalization, the point is that the state must leave our industry alone. It should rather provide assistance in the form of subsidies” (Wanderers Taxi Rank Taxi Owner 1, 2018, interview).

Therefore, the state does not engage with the contradictions of the industry. In many ways, this is the same dominant sentiment which exists in relation to other aspects of the state's formalization programme, including the taxi recapitalization process under the auspices of the Department of Transport. The context of the informal and unregulated minibus taxi industry, with the growing number of illegal taxis, leads to its precarious existence. The industry continues to be situated in a context of what Clarke calls "regulated precariousness" (2006, p. 238). This is an industry that remains informal and unregulated and its regulation has been sought over the years. So, the precariousness in the industry starts with the failed regulation by the state to the unwillingness of taxi owners to abide by the labour regulations. Therefore, while the state has made attempts to formalize the industry, these have not been successful (Ingle, 2009). The lack of integration of the industry in the government public transport plans is an emergence of a regulated precariousness system. The weak monitoring and enforcement of the labour regulations facilitated the growth of precarious working conditions in the minibus taxi industry.

While the Department of Transport; Gauteng Department of Roads and Transport; Gauteng Provincial Regulatory Entity; and Gauteng Department of Labour are making means to transform and regulate the industry, there is resistance from most of the operators. Most of the taxi operators continue operating illegally, and thus making it difficult for the departments to regulate. Also, the industry is currently not subsidized. The existence of the industry continues to be defined by regulated precariousness. What is required to implement subsidies within the industry is an accounting system, though this is not possible in the informal industry in which minibus taxis operates. The National Land Transport Transition Act speaks of the need for state subsidies to be directed at assisting marginalized users with respect to lowering the costs of public transport services. Within the industry, there is considerable tension between state efforts to regulate labour and resistance on the part of owners (and at times drivers) to inhibit this regulation and formalization.

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Conflict of Interest

I do not have conflict of interest to declare.

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Note on Contributor

Siyabulela Christopher Fobosi is currently a PhD Candidate from the University of Johannesburg. For his PhD in Industrial Sociology, he conducts research on the impact of the Taxi Recapitalization Programme (TRP)—now Revised TRP—on precarious working conditions within the minibus taxi industry in Johannesburg, South Africa. His proposed date of PhD thesis submission is October 2019.